

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TINA MARIE SMITH,

Plaintiff,

Case No: 1:10-cv-1076

v.

HON. JANET T. NEFF

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

OPINION AND ORDER

Plaintiff seeks judicial review of a decision of the Commissioner of the Social Security Administration. 42 U.S.C. § 405(g). The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R & R), recommending that this Court affirm the Commissioner's decision to deny Plaintiff's claim for Disability Insurance Benefits (DIB) under Title II of the Social Security Act. The matter is presently before the Court on Plaintiff's Objections to the R & R (Dkt 17). Defendant has filed a Response (Dkt 18). In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the R & R to which objections have been made. The Court denies the objections and issues this Opinion and Order.

Plaintiff argues that the Magistrate Judge erred in upholding the Administrative Law Judge's (ALJ's) adverse credibility finding regarding Plaintiff's subjective complaints of (1) upper extremity limitations; (2) fatigue severe enough to cause her to lie down during the day; and (3) daily panic attacks. Plaintiff argues that the Magistrate Judge gave "lip service" to the "inconsistency

requirement,” but instead upheld the ALJ’s adverse credibility finding under the less-exacting standard that factual findings be supported by substantial evidence. Plaintiff’s argument is without merit.

The Magistrate Judge properly set forth and applied the legal standards for review of Plaintiff’s claims on appeal. The Magistrate Judge concluded that the ALJ’s detailed factual finding regarding Plaintiff’s credibility easily withstands scrutiny under the applicable standards (R & R at 5). This Court agrees. Plaintiff’s argument that her subjective complaints were improperly rejected absent citation to specific, corresponding inconsistent evidence, on a limitation-by-limitation basis, is unavailing. The ALJ did not improperly rely on a mere lack of corroboration to reject Plaintiff’s complaints.

IT IS HEREBY ORDERED that the Objections (Dkt 17) are DENIED, the Report and Recommendation of the Magistrate Judge (Dkt 16) is APPROVED and ADOPTED as the Opinion of the Court, and the decision of the Commissioner of Social Security is AFFIRMED.

A Judgment will be entered consistent with this Opinion and Order.

Dated: April 4, 2012

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge